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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,848	09/17/2003	Allan Thomson	43390-8002.US01	5768

22918 7590 03/22/2007
PERKINS COIE LLP
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EXAMINER

KARIKARI, KWASI

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/666,848	THOMSON ET AL.	
	Examiner	Art Unit	
	Kwasi Karikari	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/13/2006 and 11/06/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 07/17/2006 and 11/06/2006 are in compliance with the provision of 37 CFR 1.97, has been considered by the Examiner, and made of record in the application file.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- a. Claim 81 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language "code" of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.
- b. Claim 1 is rejected under 35 U.S.C. 101 because the claimed inventions are

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directed to non-statutory subject matter. The claimed subject matter in the instant application fails to define a result in the process that is being claimed. The Examiner has determined that claim 1 and the claims that depend thereof (i.e., claim 2- 80), fail to provide a practical application that produces a useful, tangible and concrete result. Claim 81 provides evidence that claim 1 constitute a disembodied computer algorithm or steps.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1.

Claims 1-82 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-60 of copending Application No. 10/667,027. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claims 1-82 are broadly encompassed by the limitation of claim 1-60 of the publication and as such it would have been obvious to one of the ordinary skill in the art to implement the instant

application as defined by claims 1-82 in order to perform the configuration of wireless network to achieve a specific service.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 82 is rejected under 35 U.S.C. 102(b) as being anticipated by Rappaport et al. (U.S 6,317,599), (hereinafter Rappaport).

Regarding claim 82, Rappaport discloses an apparatus managing a wireless local area network (see col. 5, lines 39-53), comprising:

means for receiving floor plan data about a site for the wireless local area network (see col. 5, lines 39-53);

means for receiving coverage data about the site for the wireless local area network (see col. 3, lines 42-57 and Fig. 5);

means for receiving capacity data (selecting and positioning various components, see col. 3, lines 45-51) about the site for the wireless local area network (see col. 9, lines 30-55);

means for, based at least on the floor plan data, the coverage data, and the capacity data, determining quantity, placement, and configuration of a plurality of

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access points of the wireless local area network (see col. 9, line 30- col. 10, line 12 and col. 3, lines 45-57);

means for receiving measured wireless local area network data;

means for comparing the measured wireless local area network data with expected wireless local area network data, the expected wireless local area network data generated at least from the floor plan data about the site of the wireless local area network, and the quantity, the placement, and the configuration of the plurality of access points of the wireless local area network (see col. 5, lines 54-63 and col. 12, lines 37-65); and

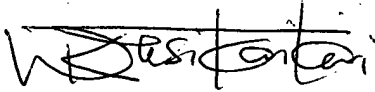
means for, based at least on the measured wireless local area network data, changing one or more of: the floor plan data about the site of the wireless local area network, the quantity of the plurality of access points (potential transmitters), the placement of the plurality of access points, and the configuration of the plurality of access points (see col. 12, lines 37-65 and Figs. 9A & 9B).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-F (8 am - 4pm). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kwasi Karikari
Patent Examiner.
02/19/2007


ERIKA A. GARY
PRIMARY EXAMINER